

## § 9.10

## 38 CFR Ch. I (7-1-12 Edition)

with the terms of the policy. Its purpose will be to provide for the determination and maintenance of appropriate charges arising from excess mortality under individual conversion policies issued in accordance with this section and provide for the appropriate distribution of the risk of loss due to such excess mortality among the reinsurers and converters.

[40 FR 4135, Jan. 28, 1975, as amended at 53 FR 17699, May 18, 1988. Redesignated and amended at 61 FR 20135, 20136, May 6, 1996]

### § 9.10 Health standards.

(a) For the purpose of determining if a member who incurred a disability or aggravated a preexisting disability during a period of active duty or active duty for training under a call to duty specifying a period of less than 31 days or during a period of inactive duty was rendered uninsurable at standard premium rates, the underwriting criteria used by the insurer in determining good health for persons applying to it for life insurance in amounts not exceeding the maximum amount of coverage then available under 38 U.S.C. 1967 will be used.

(Authority: 38 U.S.C. 1967)

(b) For all other purposes of determining if a member meets the necessary health requirements except paragraph (a) of this section, the underwriting criteria used by the insurer in determining good health for group life insurance purposes will be used.

[40 FR 4135, Jan. 28, 1975, as amended at 53 FR 17699, May 18, 1988. Redesignated at 61 FR 20135, May 6, 1996]

### § 9.11 Criteria for reinsurers and converters.

The following criteria will control eligibility for reinsuring and converting companies:

(a) The company must be a legal reserve life insurance company as classified by the insurance supervisory authorities of the State of domicile. Qualified fraternal organizations are included.

(b) The company must have been in the life insurance business for a continuous period of 5 years prior to October 1, 1965, or the December 31 preceding

any redeterminations of the allocations. In the event of a merger, the 5-year requirement may be satisfied by either the surviving company or by one of the absorbed companies. Upon joint application by a subsidiary of a participating company, together with the parent company, the 5-year requirement may be waived provided such parent company owns more than 50 percent of the outstanding stock of the subsidiary and has been a legal reserve life insurance company for a period of 10 years or more.

(c) The company must be licensed to engage in life insurance in at least one State of the United States or the District of Columbia.

(d) The company will not be one: (1) Certified by the Department of Defense as being under suspension for cause for purpose of allotment or on-base solicitation privileges.

(2) That solicits life insurance applications as conversion or other replacement of Servicemembers' Group Life Insurance or Veterans' Group Life Insurance coverage in jurisdictions in which it is not licensed.

(3) That fails to take effective action to correct an improper practice followed by it or its agents within 30 days after written receipt of notice issued by the insurer or the Assistant Director for Insurance. Improper practice includes:

(i) The use for solicitation purposes of lists of names and addresses of former members without obtaining reasonable assurance that such lists have not been obtained contrary to regulations of the Department of Defense or other uniformed service;

(ii) Failure to reveal sources and copies of mailing lists upon proper request or to otherwise cooperate in an authorized investigation of a reported improper practice;

(iii) The use of written or oral representations which may mislead the person addressed as to the true role of the company or its representatives as one of the participating companies;

(iv) The use of written or oral representations which may mislead the person addressed as to rights, privileges, coverage, premiums, or similar matters under Servicemembers' Group Life Insurance, Veterans' Group Life

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Insurance, or any policy issued or proposed to be issued as a conversion or other replacement coverage;

(v) Violation of regulations of a uniformed service concerning solicitation of life insurance; and

(vi) The use of written or oral references to Servicemembers' Group Life Insurance, Veterans' Group Life Insurance or conversions of Servicemembers' Group Life Insurance or Veterans' Group Life Insurance in connection with the attempted sale of an insurance policy which would not be, in fact, a conversion policy or a policy issued in lieu of a conversion, if those references might lead a person addressed to believe there is a connection between the policy being sold and coverage under Servicemembers' Group Life Insurance, Veterans' Group Life Insurance or a conversion of it.

(e) Each reinsuring and converting company must agree to issue conversion policies to any qualified applicant regardless of race, color, religion, sex, or national origin, under terms and conditions established by the primary insurer.

[40 FR 4135, Jan. 28, 1975. Redesignated at 61 FR 20135, May 6, 1996]

### § 9.12 Reinsurance formula.

The allocation of insurance to the insurer and each reinsurer will be based upon the following:

(a) An amount of the total life insurance in force under the policy in proportion to the company's total life insurance in force in the United States where:

The first \$100 million in force is counted in full,

The second \$100 million in force is counted at 75 percent,

The third \$100 million in force is counted at 50 percent,

The fourth \$100 million in force is counted at 25 percent,

And any amount above \$400 million in force is counted at 5 percent.

(b) The allocation will be redetermined at the beginning of each policy year for the primary insurer and the companies then reinsuring, with the portion as set forth in paragraph (a) of this section based upon the corresponding in force (excluding the Servicemembers' Group Life Insurance

in force) as of the preceding December 31.

(c) Any life insurance company, which is not initially participating in reinsurance or conversions, but satisfies the criteria set forth in § 9.11, may subsequently apply to the primary insurer to reinsure and convert, or to convert only. The participation of such company will be effective as of the beginning of the policy year following the date on which application is approved by the insurer.

[40 FR 4135, Jan. 28, 1975. Redesignated and amended at 61 FR 20135, 20136, May 6, 1996]

### § 9.13 Actions on the policy.

The Assistant Director for Insurance will furnish the name and address of the insuring company upon written request of a member of the uniformed services or his or her beneficiary. Actions at law or in equity to recover on the policy, in which there is not alleged any breach of any obligation undertaken by the United States, should be brought against the insurer.

[40 FR 4135, Jan. 28, 1975. Redesignated and amended at 61 FR 20135, 20136, May 6, 1996]

### § 9.14 Accelerated Benefits.

(a) *What is an Accelerated Benefit?* An Accelerated Benefit is a payment of a portion of your Servicemembers' Group Life Insurance or Veterans' Group Life Insurance to you before you die.

(b) *Who is eligible to receive an Accelerated Benefit?* You are eligible to receive an Accelerated Benefit if you have a valid written medical prognosis from a physician of 9 months or less to live, and otherwise comply with the provisions of this section.

(c) *Who can apply for an Accelerated Benefit?* Only you, the insured member, can apply for an Accelerated Benefit. No one can apply on your behalf.

(d) *How much can you request as an Accelerated Benefit?* (1) You can request as an Accelerated Benefit an amount up to a maximum of 50% of the face value of your insurance coverage.

(2) Your request for an Accelerated Benefit must be \$5,000 or a multiple of \$5000 (for example, \$10,000, \$15,000).

(e) *How much can you receive as an Accelerated Benefit?* You can receive as an